

### **REMARKS/ARGUMENTS**

Initially, the Applicant would like to thank Examiner Cocks for taking the time to discuss the above-referenced patent application with the Applicant's representative during a telephone interview conducted on June 9, 2005. During the interview, the rejection as to claims 1-14 was discussed.

Claims 1 and 7-9 currently stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,349,714 to Hurley et al. Hurley et al. discloses a cooktop having at least one gas burner assembly and a wire coil arranged adjacent to the at least one burner assembly. The wire coil may be connected to a source of electrical energy sufficient to produce a spark from one coil or loop of the wire to an adjacent coil or loop of the wire to ignite fuel present in the gas burner assembly. Recognizing that Hurley et al. does not teach operating the wire coil in a mode wherein electrical energy is supplied to the wire filament coil in the absence of a flow of gas to establish a second heat energy source, the Examiner asserts that heating the electrical wire is not dependent on the presence of gas fuel. Thus, the Examiner states that a control unit in Hurley would be capable of heating, and correspondingly considered to be adapted to heat, the wire in the absence of a flow of gas. The Examiner also argues that, when these wires are activated, the wires would be capable of causing some minimal degree of heating to the cooking zone which is not dependent upon the gaseous fuel combination.


The Applicant respectfully submits that Hurley et al., at no point, mentions employing the wire filament as a secondary heat source for heating a cooking zone, let alone operating the wire filament in the absence of a flow of gas to perform a low temperature cooking operation. That is, it is the Applicant's opinion that the Examiner is using impermissible hindsight, i.e., employing the claims of the present invention as a blueprint, taking an unreasonably broad interpretation of the prior art and impermissibly using an "obvious to try" or "capable of" argument without a necessary teaching of motivation to apply the art against the claimed invention. That being said, and in order to

further the prosecution of the present application, the Applicant has amended claims 1 and 8 to include structure which would further define the present invention from the prior art. Specifically, claims 1 and 8 have been amended to recite simmer circuitry, such as one or more additional electrical components incorporated into the control unit or in a separate unit, which is electrically interconnected to the wire filament and provides further support for the originally recited limitation regarding the wire filament coil being employed, in the absence of the flow of gas, to heat the cooking zone to a temperature below the cooking temperature. As a "simmer" operation is seen to have a specific meaning in the art and the prior art is simply not seen to include any structure that would correspond to the claimed features, claims 1 and 8, and those depending therefrom, should be allowable. During the interview conducted, these changes were proposed and the Examiner appeared to favorably view the same.

- With respect to many of the dependent claims, it is respectfully submitted that these claims further distinguish the invention from the prior art. For instance, claims 2 and 10 require that the wire filament be formed from a plurality of wire segments that are independently connected to the control unit, claims 3 and 11 require that each of the plurality of segments be operated independently or concurrently, claims 5 and 13 require that the wire filament include four segments arranged about the gas burner assembly, and claims 6 and 14 require that each of the four segments operate on 40 watts of electrical energy. While the Examiner argues that it would have been obvious to a person of ordinary skill in the art to modify the wire coil of Hurley et al. to incorporate a plurality of wire segments, and that operating the segments on 40 watts of electrical energy would simply be a matter of design optimization, the Applicant is unclear as to how the Examiner arrived at this conclusion. As stated above, Hurley et al. does not teach activating the wire filament as a secondary heat source in the absence of a gas flow, and certainly does not suggest either segmenting the wire filament or providing electrical energy to the various segments to establish a low heat setting, let alone the more particular features set forth in these dependent claims.

Based on the above remarks and amendments to the claims, it is respectfully submitted that the invention is patentably defined over the prior art of record such that allowance of all claims and passage of the application to issue are respectfully requested. If the Examiner should have any additional concerns regarding the allowance of this application, he is cordially invited to contact the undersigned at the number provided below if it would further expedite the prosecution of this application.

Respectfully submitted,



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